

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**  
Alexandria Division

In re:

MICHAEL CHRISTOPHER MCGRATH  
and  
LYDIA JEAN MCGRATH,

Debtors.

Case No. 10-20530-RGM  
(Chapter 7)

**MEMORANDUM OPINION**

THIS CASE is before the court on the debtors' motion to extend the automatic stay pursuant to 11 U.S.C. §362(c)(3)(B). This is the debtors' second bankruptcy filing within one year. The first case was dismissed. The motion to extend the automatic stay was made within 30 days after this case was filed, but the hearing date selected by the debtors was more than 30 days after the petition was filed. Section 362(c)(3)(B) permits the court to extend the automatic stay past the 30-day period "after notice and a hearing *completed* before the expiration of the 30 day period". The hearing was not completed before the expiration of the 30-day period. The court is, thus, without authority to extend the automatic stay under §362(c)(3)(B).

The court notes that the automatic stay is terminated with respect to the debtors on the thirtieth day after the filing of this case. 11 U.S.C. §362(c)(3)(A). Although the stay terminated as to the debtors, it did not terminate as to the trustee or property of the estate and remains, as to the trustee, in full force and effect.

An expedited hearing is available when a regular motion's day is not available within the 30-day period as long as neither the debtor nor counsel are dilatory in requesting it.

Alexandria, Virginia

January 25, 2011

/s/ Robert G. Mayer  
Robert G. Mayer  
United States Bankruptcy Judge

Copy electronically to:

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